

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

February 20, 2008

Charles R. Fulbruge III
Clerk

No. 07-50354

Conference Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

RAFAEL MONDRAGON GARCIA

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:06-CR-268-2

Before KING, WIENER, and ELROD, Circuit Judges.

PER CURIAM:*

Rafael Mondragon Garcia appeals from his conviction by guilty plea of distribution of methamphetamine. He contends that the district court erred by failing to adjust his offense level downward for acceptance of responsibility and pursuant to the safety-valve provision of the Sentencing Guidelines and that he received ineffective assistance of counsel at sentencing. The Government argues that Mondragon Garcia waived his right to appeal his guidelines sentencing issues.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

The Government is correct. Mondragon Garcia knowingly and voluntarily waived his appeal of the guidelines sentencing issues he seeks to raise on appeal. See *United States v. Robinson*, 187 F.3d 516, 518 & n.2 (5th Cir. 1999); *United States v. Melancon*, 972 F.2d 566, 567-68 (5th Cir. 1992). The record is insufficiently developed for this court to determine Mondragon Garcia's contention that he received ineffective assistance of counsel; we therefore do not consider that contention. See *Massaro v. United States*, 538 U.S. 500, 504-05 (2003).

AFFIRMED.